1951

File No. B. Sales Tax/51

Legal Department-

B **BRANCH**

Subject:—

L A. Bill No. XIII of 1951

A Bill to amend the

Bombay Sales Tax Act, 1946

Bom. Act No. XVIII of 1951

File No. B. Sales Tax/51

Gen. 194 e.

737 B

Legal Department.

A draft Bill incorporating the necessary amendment is sent herewith.

2. The subject matter of the Bill falls under entry 54 in List II in the Seventh Schedule to the Constitution of India. The Bill does not require the previous sanctin or recommendation of the Governor. The Bill will have to be reserved for the consideration of the President withr eference to article 254(2) of the Constitution of India.

Id/-
14/7.
Additional Secretary to Government.

U.R. to F.D., No. 10024, dated the 15th July 1950.

MSR.
7/7.

Legal Department.

A revised draft Bill is sent herewith.

2. The proposal of the Finance Department to insert a new sub-section (4A) in section 12 of the Act providing for a penalty on the failure to pay the amount of tax within the prescribed period is not in order. Sub-section (3A) of section 12 already provides for a penalty of a sum not exceeding three-fourths per cent of the amount of tax for every deafult made by a dealer after the expirty of the period prescribed for the payment of sales tax. Sub-section (5) of section 12 further authorises the recovery of the unpaid amount of tax and the peanlty, if any, as an arrear of land revenue. In view of these provisions, it would not be quitable to provide a further penalty as proposed by the Finance Department. The said provision has, therefore, been deleted.

3. It is also proposed by the Finance Department to amend section 16 soas to enable the Sales Tax Inspector to exercise powers under the Act. From the provision made by the Finance Department it appears to be the intention that only selected Sales Tax Inspectors are to be directed to exercise such powers. As only the Collector and not a Sales Tax Officer has got the discretion under section 16 to authorise such officers as he deems fit, it is not proper to pr-ovide in the amendment that only such Inspectors as are authorised by a Sales Tax Officer shall be considered to be eligible to

exercise the powers. The only amendment necessary is to substitute the words "Sales Tax Inspector" for the words "Sales Tax Officer", The latter being higher in status will be covered by the expression now being substituted.

Id/-

8/2.

Additional Secretary to Government.

U.R. to F.D. No. 141-Confl., dated the 8th February 1951.

MSR.

Immediate.

No. 5174
Legal Department,
Bombay Castle (Bombay No.1),
31st March 1951.

From

Shri J.R. Dhurandhar,
Secretary tothe Government of Bombay.

To

The Secretary to the Governor of Bombay.

Subject:- The Bombay Sales Tax (Amendment) Bill, 1951.

Sir,

With reference to article 200 of the Constitution of India, I am directed to forward herewith for being presented to His Excellency the Governor the authentic copy of the Bombay Sales Tax (Amendment) Bill, 1951, which was read for the third time and passed at the meetings of the Bombay Legislative Assembly and the Bombay Legislative Council held on the 20th and 28th March 1951 respectively.

2. The subject matter of the Bill falls under entry 54 in List II and entries 6 and 7 in List III in the Seventh Schedule to the Constitution of India. As the provisions of the Bill are repugnant to the provisions of the Indian Sales of Goods Act, 1930, which is an existing law relaing to entries 6 and 7 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution.

P.T.O.

3. I also forward herewith six copies of the items

	Nos.
1. Bill as introduced in the Bombay Legislative Assembly with the Statement of Objects and Reasons.	1 and 2 and
2. Bill as read for the third time and passed by the Bombay Legislative Council.	two copies
3. Extracts from the proceedings of the Bombay Legislative Assembly dated the 15th and the 20th March 1951 and of the Bombay Legislative Council dated the 28th March 1951.	of item No. 3

of the papers noted in the margin. The Bill was not referred to a Select Committee.

4. I am to state that Government desires that the Bill should, after receiving the assent of the President, be published in the Bombay Government Gazette as an Act as early as possible. It is requested that the President may be moved to give his assent to the Bill as soon as possible and to convey the assent by telegram so as to enable this Department to publish the Act as early as possible and also to communicate the date on which the assent is given.

Yours faithfully,

Id/-

31/3

Secretary to Government.

Through:

The Secretary to the Government of Bombay,
Finance Department.

MSR.
9/7.

No. G.S. 912

From

THE S-ECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to the Bombay Legislature
Department, Council Hall,
Bombay 1.

'GOVERNMENT HOUSE,
BOMBAY, 6 April 6, 1951.

Subject: The Bombay Sales Tax (Amendment) Bill, 1951.

Sir,

With reference to the Bombay Sales Tax (Amendment) Bill, 1951, which was passed by the Bombay Legislative Assembly and the Bombay Legislative Council on March 20 and 28, 1951, respectively, I am directed to state, for the information of the Honourable the Speaker and the Honourable the Chairman, that as the provisions of the Bill are repugnant to the provisions of the Indian Sales of Goods Act, 1930, which is an existing law relating to entries 6 and 7 in the Concurrent Legislative List, it is necessary to reserve the Bill for the consideration of the President with reference to article 254(2) of the Constitution of India. His Excellency the Governor is accordingly pleased, under article 200 of the Constitution, to declare that he reserves the Bill for the consideration of the President.

Yours faithfully,
Sd/- L.M. Nadkarni.
Secretary to the Governor of Bombay.

.....

No. G.S.- 913
Office of the Secretary to the Governor,
Government House, Bombay 6,
April 6, 1951.

Copy forwarded with compliments for information to :-

(1) The Secretary to Government, Legal Department, with reference to his letter No. 5174, dated March 31, 1951;

(2) The Secretary to Government, Finance Department, with reference to his endorsement No. 6495/33/10501-XII, dated April 2, 1951.

Id/-

Secretary to the Governm

MSR.

No. G.S.- 1144

From

THE SECRETARY TO THE GOVERNOR OF BOMBAY

To

The Secretary to Government,
Legal Department.

GOVERNMENT HOUSE,
BOMBAY, April 27, 1951.

Subject: The Bombay Sales Tax (Amendment) Bill, 1951.

Sir,

With reference to the correspondence ending with your letter No. 6265, dated April 18, 1951, I am to say that intimation has been received from the Government of India, Ministry of Home Affairs, that the President assented to the Bombay Sales Tax (Amendment) Bill, 1951, on April 23, 1951.

Yours faithfully,
Id/-
for Secretary to the Governor.

MSR.
9/7.

ACTS.

Publication of the Bombay Sales Tax (Amendment) Act, 1951.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 6853
Bombay Castle, 30th April 1951.

Letter to the Secretary to the Governor, No. 5174, dated the 31st March 1951.

A Letter from the Secretry to the Governor, No. G.S. 1144, dated the 27th April 1951.

"With reference to the correspondence ending with your letter No. 6265, dated April 18, 1951, I am to say tht intimation has been received from the Government of India, Ministry of Home Affairs, tht the President assented to the Bombay Sales Tax (Amendment) Bill, 1951, on April 23, 1951:

RESOLUTION : - The law should be published as Bombay Act No. XVIII of 1951, in the Bombay Government Gazette dated the 30th April 1951.

2. The ACt should be translated into Marathi, Gujarati, Kannada and Hindi (in Devnagari script) and the translations should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department.

By order of the Governor of Bombay,

Sd/- K.J. Pathare,
Assistant Secretary to Government.

To

The Manager, Government Central Press, Bombay (with a copy of the Act and with a request that 30 Gazette copies of the Act may be forwarded to the Legal Department, and 10 copies to the Finance Department),

The Finance Department,
* The Oriental Translator to Government,
The Bombay Legislative Department,
The Director of Publicity, Bombay,
The Enquiry Officer for the Secretariat Bombay.

} With a copy of the Act.

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* With four extra copies of the Act.

MSR.
9/7.

REGISTERED No. B-1

The Bombay Government Gazette

PUBLISHED BY AUTHORITY

MONDAY, 30TH APRIL 1951.

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Bombay Legislature and Ordinances promulgated and Regulations made by the Governor.

CONTENTS.

	Pages
BOMBAY ACT No. XVIII OF 1951—An Act to amend the Bombay Sales Tax Act, 1946 ..	63-68

The following Act of the Bombay Legislature having been assented to by the President on the 23rd April 1951 is hereby published for general information.

B. D. MIRCHANDANI,
Additional Secretary to the Government of Bombay,
Legal Department.

BOMBAY ACT No. XVIII OF 1951.

(First published, after having received the assent of the President, in the "Bombay Government Gazette" on the 30th April 1951.)

An Act to amend the Bombay Sales Tax Act, 1946.

Bom. V of 1946.

WHEREAS it is expedient to amend the Bombay Sales Tax Act, 1946, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Sales Tax (Amendment) Act, 1951.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. V of 1946.

Amendment of section 2 of Bom. V of 1946.

2. In section 2 of the Bombay Sales Tax Act, 1946 (hereinafter called the said Act),—

(i) in clause (*c*) after the word "includes" the words "a State Government which carries on such business and" shall be inserted;

(ii) in clause (*g*), for "*Explanation 2*" the following shall be substituted, namely:—

III of 1930.

"*Explanation 2.*—Notwithstanding anything to the contrary in the Indian Sale of Goods Act, 1930, the sale of any goods which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State shall be deemed, for the purposes of this Act, to have taken place in the said State, irrespective of the fact that the property in the goods has, by reason of such sale, passed in another State."

Amendment of section 6 of Bom. V of 1946.

3. In section 6 of the said Act,—

(i) in sub-section (*1*), the proviso below clause (*b*) shall be deleted;

(ii) in sub-section (*3*),—

(*a*) for clause (ii) of Rule I ending with the words "of such goods" the following shall be substituted, namely:—

"(ii) sales or supplies to a registered dealer holding a licence under section 8B—

(*a*) of goods certified by him as being intended for resale, or for use as containers and other materials for the packing of goods to be sold or supplied by him; or

(*b*) of goods specified in such licence and certified by him as being intended for use by him in the manufacture or processing of any goods for sale or supply:"

(*b*) in paragraph (*a*) of the proviso to clause (ii) of Rule I, for the words "certificate of registration; or" the word "licence" shall be substituted;

(*c*) paragraph (*b*) of the proviso to clause (ii) of Rule I shall be deleted;

(*d*) the proviso at the end below Rule III shall be deleted.

Amendment of section 8 of Bom. V of 1946.

4. In section 8 of the said Act, in sub-section (*1*), for the words "been registered and possesses a registration certificate" the words "applied for registration within such period as may be prescribed" shall be substituted.

Amendment of section 8A of Bom. V of 1946.

5. In section 8A of the said Act, for sub-section (*5*) the following shall be substituted, namely:—

"(*5*) Subject to the provisions of sub-section (*4*), a dealer registered upon application made under this section may apply in the prescribed manner not more than two months after the expiry of any year to the authority which granted him his certificate of registration for the cancellation of such registration; and the said authority shall, unless the dealer is liable to pay tax under section 5, cancel the registration with effect from the expiry of one calendar month following that in which such application was made".

Insertion of new section 8B in Bom. V of 1946.

Licence to registered dealers for certain purposes.

6. After section 8A of the said Act, the following new section shall be inserted, namely:—

"8B. (*1*) The Collector may grant to a registered dealer, after the expiry of twelve calendar months from the date of his registration, a licence for the purpose of clause (ii) of Rule I in sub-section (*3*) of section 6 in such manner, in such form and subject to such conditions as may be prescribed:

Provided that in the case of a dealer whose registration is in force on the 31st of March 1951, his certificate of registration shall, for such period after that date not exceeding six months as may be prescribed, be deemed to be a licence granted to such dealer under this section and the Collector may grant a licence under this section to such dealer notwithstanding the fact that twelve calendar months from the date of his registration have not expired.

(*2*) The Collector may suspend the licence granted or deemed to be granted under sub-section (*1*) for such period as may be necessary or may cancel the same if the registered dealer to whom it has been granted or deemed to be granted fails to pay any tax, including penalty, payable by him under this Act or contravenes any provisions of the Act."

7. In section 10 of the said Act, to sub-section (*1*), the following proviso shall be added, namely :— Amendment of section 10 of Bom. V of 1946.

"Provided that the Collector may, subject to such terms and conditions as may be prescribed, permit any dealer required to furnish returns under this section, to furnish them for such different periods as he may direct."

8. To section 11A of the said Act, the following proviso shall be added; namely :— Amendment of section 11A of Bom. V of 1946.

"Provided further that where in respect of such turnover or deductions, as the case may be, an order has already been passed under section 21 or section 22, the Collector shall make a report to the appropriate appellate or revising authority, as the case may be, which shall thereupon after giving the dealer concerned a reasonable opportunity of being heard, pass such orders as it deems fit."

9. In section 12 of the said Act, in sub-section (*4*), in sub-clause (*b*) of clause (i), the figure and brackets "(1)," shall be deleted and after the word and figures "section 11" the words, figures and letter "or under section 11A" shall be inserted. Amendment of section 12 of Bom. V of 1946.

10. After section 12 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 12-1A in Bom. V of 1946.

"12-1A.(*1*) Notwithstanding anything contained in any law or contract to the contrary, the Collector may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the Collector) require,— Special mode of recovery.

(*a*) any person from whom any amount is due or may become due to a dealer on whom a notice has been served under sub-section (*4*) of section 12, or

(*b*) any person who holds or may subsequently hold money for or on account of the dealer,

to pay to the Collector, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax and penalty under this Act or the whole of the money when it is equal to or less than that amount.

(*2*) The Collector may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(*3*) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the Collector shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(*4*) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Collector to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalties, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Collector that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Collector.

(6) Any amount of money which a person is required to pay to the Collector or for which he is personally liable to the Collector under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue."

Amendment of section 12A of Bom. V of 1946.

11. In section 12A of the said Act, for sub-section (2), the following shall be substituted, namely :—

"(2) No person selling or supplying any goods shall collect from the purchaser any amount by way of Sales Tax unless he is a registered dealer and is liable to pay tax under this Act in respect of such sale or supply :

Provided that this sub-section shall not apply in cases where a person is required to collect such amount of tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force."

Amendment of section 13 of Bom. V of 1946.

12. To section 13 of the said Act, the following proviso shall be added, namely :—

"Provided further that the Collector shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice under sub-section (4) of section 12 may have been issued and shall then refund the balance remaining, if any."

Insertion of new section 13A in Bom. V of 1946.

13. After section 13 of the said Act, the following new section shall be inserted, namely :—

Set off or refund in certain cases.

"13A. The Collector shall subject to such conditions as may be prescribed, while assessing the tax payable under this Act by a registered dealer for any period during which he did not hold a licence under section 8B, grant him a set off or refund, as the case may be, equal to the amount of tax under this Act recovered from him, during such period by another registered dealer."

Amendment of section 15 of Bom. V of 1946.

14. In section 15 of the said Act, at the end of sub-section (4), the following shall be added, namely :—

"or any other place where the Collector has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, or documents of his business."

Amendment of section 16 of Bom. V of 1946.

15. In section 16 of the said Act, the proviso shall be deleted.

Amendment of section 18 of Bom. V of 1946.

16. In section 18 of the said Act,—

(i) in sub-section (1), after the words "the transferee shall" the words "also be liable to pay tax under this Act on the sales or supplies of goods effected by him with effect from the date of such transfer and shall" shall be inserted ;

(ii) in sub-section (2), for the words "a registered dealer" the words "a dealer liable to pay tax under this Act" shall be substituted ;

(iii) for sub-section (3), the following shall be substituted, namely :—

"(3) (i) When a firm liable to pay tax under this Act is dissolved each of such partners thereof shall, or

(ii) where a Hindu joint family liable to pay tax under this Act is separated each of its members shall,

unless he holds or obtains within the prescribed period a certificate of registration, be liable to pay tax under this Act on the proportion of the stock of goods remaining unsold equal to his share or interest in the firm or family, as the case may be."

(iv) in sub-section (*4*),—

(*a*) the words "a business or" shall be deleted;

(*b*) for the words, brackets and figures "sub-sections (*1*) to (*3*)" the words, brackets and figures "sub-section (*2*) or (*3*)" shall be substituted.

Amendment of section 18-A of Bom. V of 1946.

17. In section 18-A of the said Act, after the word and figure "section 8" the words, brackets, figures and letter "or sub-section (*5*) of section 8A" shall be inserted.

Amendment of section 21 of Bom. V of 1946.

18. In section 21 of the said Act,—

(i) to sub-section (*1*), the following proviso shall be added, namely:—

"Provided further that the said authority may, if it deems fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of the amount of tax including penalty, if any, or on proof of payment of such smaller amount as it may direct."

(ii) in sub-section (*3*), for the figures and word "22 and 23" the figures, word and letter "22, 23 or 23A" shall be substituted.

Amendment of section 24 of Bom. V of 1946.

19. In section 24 of the said Act, in sub-section (*1*),—

(i) in clause (*a*), after the word and figure "section 8" the words, brackets and figures "or sub-section (*1*) of section 18" shall be inserted;

(ii) for clause (*c*), the following shall be substituted, namely:—

"(*c*) being a holder of a licence under section 8B, knowingly gives a false certificate in respect of any goods which he has purchased or intends to purchase, for the purpose of clause (ii) of Rule I of sub-section (*3*) of section 6.";

(iii) for clause (*d*), the following shall be substituted, namely:—

"(*d*) not being a holder of a licence under section 8B, falsely represents that he is or was such a holder of a licence at the time when he purchases or purchased any goods;";

(iv) in clause (*f*), for the word "refuses" the word "fails" shall be substituted;

(v) after clause (i), the following word and new clause shall be inserted, namely:—

"or

(*j*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*i*) of this sub-section."

Insertion of new section 28A in Bom. V of 1946.

20. After section 28 of the said Act, the following new section shall be inserted, namely:—

Appearance by dealer.

"28A. Any dealer who is entitled to attend before any authority in connection with any proceedings under this Act, may attend before the authority—

(*a*) by a person authorised by him in this behalf being his relative or a person regularly employed by him, or

(*b*) by a legal practitioner, or

(*c*) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications."

Amendment of section 29 of Bom. V of 1946.

21. In section 29 of the said Act, in sub-section (*2*)—

(i) in clause (*cc*), the portion beginning with the words "the period" and ending with words and figure "section 6, and" shall be deleted;

(ii) after clause (*ff*), the following clause shall be inserted, namely:—

"(*ffa*) the manner and the form of licence under section 8B and the conditions subject to which a licence is granted;";

(iii) to clause (*h*), the following shall be added, namely:—

"and the terms and conditions for purposes of the proviso to sub-section (*1*) of the said section 10;";

(iv) after clause (*k*), the following shall be inserted, namely:—

"(*kk*) the conditions for the purpose of section 13A;";

(v) after clause (*p*), the following clause shall be inserted, namely:—

"(*pp*) the conditions and the qualifications for the purposes of clause (*c*) of section 28A;".

Amendment of Schedule I of Bom. V of 1946.

22. In Schedule I to the said Act,—

(i) for entry (7), the following shall be substituted, namely:—

"7. Silk cloth (including artificial silk cloth), and goods made from such cloth (excluding gas mantles).";

(ii) in entry 13, after the word "real" the word "artificial" shall be inserted;

(iii) for entry 17, the following shall be substituted, namely:—

"17. Glassware, chinaware and domestic pottery but excluding—

(i) earthenware pottery,

(ii) glass bangles and small beads of black or green colour used for making *mangal sutra* necklaces,

(iii) empty glass bottles,

(iv) spectacle lenses (optical), and

(v) glassware and porcelain ware designed for use for medical, surgical, laboratory and scientific purposes.";

(iv) in entry (22), after the word "embroidered" the words "and goods made from such fabrics" shall be inserted.

Amendment of Schedule II of Bom. V of 1946.

23. In Schedule II to the said Act, for entry 26 the following shall be substituted, namely:—

"26 Motor spirit, meaning—

(*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and

(*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid;

but not including diesel oil or any other form of inflammable hydro-carbon material which the State Government may, by notification in the *Official Gazette*, specify in this behalf."

BOMBAY: PRINTED AT THE GOVERNMENT CENTRAL PRESS.

L. A. BILL No. XIII OF 1951.

A Bill to amend the Bombay Sales Tax Act, 1946.

(As read for the third time and passed by the Legislative Assembly on the 20th March 1951.)

(As read for the third time and passed by the Legislative Council on the 28th March 1951.)

Bom. V of 1946.

WHEREAS it is expedient to amend the Bombay Sales Tax Act, 1946, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Sales Tax (Amendment) Act, 1951.

(*2*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint.

Bom. V of 1946.

Amendment of section 2 of Bom. V of 1946.

2. In section 2 of the Bombay Sales Tax Act, 1946 (hereinafter called the said Act),—

(i) in clause (*c*) after the word "includes" the words "a State Government which carries on such business and" shall be inserted;

(ii) in clause (*g*), for "*Explanation 2*" the following shall be substituted, namely:—

"*Explanation 2.*—Notwithstanding anything to the contrary in the Indian Sale of Goods Act, 1930, the sale of any goods which have actually been delivered in the State of Bombay as a direct result of such sale for the purpose of consumption in the said State shall be deemed, for the purposes of this Act, to have taken place in the said State, irrespective of the fact that the property in the goods has, by reason of such sale, passed in another State."

III of 1930.

Amendment of section 6 of Bom. V of 1946.

3. In section 6 of the said Act,—

(i) in sub-section (*1*), the proviso below clause (*b*) shall be deleted ;

(ii) in sub-section (*3*),—

(*a*) for clause (ii) of Rule I ending with the words "of such goods" the following shall be substituted, namely :—

"(ii) sales or supplies to a registered dealer holding a licence under section 8B—

(*a*) of goods certified by him as being intended for resale, or for use as containers and other materials for the packing of goods to be sold or supplied by him ; or

(*b*) of goods specified in such licence and certified by him as being intended for use by him in the manufacture or processing of any goods for sale or supply : "

(*b*) in paragraph (*a*) of the proviso to clause (ii) of Rule I, for the words "certificate of registration ; or" the word "licence" shall be substituted ;

(*c*) paragraph (*b*) of the proviso to clause (ii) of Rule I shall be deleted ;

(*d*) the proviso at the end below Rule III shall be deleted.

Amendment of section 8 of Bom. V of 1946.

4. In section 8 of the said Act, in sub-section (*1*), for the words "been registered and possesses a registration certificate" the words "applied for registration within such period as may be prescribed" shall be substituted.

Amendment of section 8A of Bom. V of 1946.

5. In section 8A of the said Act, for sub-section (*5*) the following shall be substituted, namely :—

"(*5*) Subject to the provisions of sub-section (*4*), a dealer registered upon application made under this section may apply in the prescribed manner not more than two months after the expiry of any year to the authority which granted him his certificate of registration for the cancellation of such registration ; and the said authority shall, unless the dealer is liable to pay tax under section 5, cancel the registration with effect from the expiry of one calendar month following that in which such application was made ".

Insertion of new section 8B in Bom. V of 1946.

Licence to registered dealers for certain purposes.

6. After section 8A of the said Act, the following new section shall be inserted, namely :—

"8B. (*1*) The Collector may grant to a registered dealer, after the expiry of twelve calendar months from the date of his registration, a licence for the purpose of clause (ii) of Rule I in sub-section (*3*) of section 6 in such manner, in such form and subject to such conditions as may be prescribed :

Provided that in the case of a dealer whose registration is in force on the 31st of March 1951, his certificate of registration shall, for such period after that date not exceeding six months as may be prescribed, be deemed to be a licence granted to such dealer under this section and the Collector may grant a licence under this section to such dealer notwithstanding the fact that twelve calendar months from the date of his registration have not expired.

(*2*) The Collector may suspend the licence granted or deemed to be granted under sub-section (*1*) for such period as may be necessary or may cancel the same if the registered dealer to whom it has been granted or deemed to be granted fails to pay any tax, including penalty, payable by him under this Act or contravenes any provisions of the Act."

7. In section 10 of the said Act, to sub-section (*1*), the following proviso shall be added, namely :— Amendment of section 10 of Bom. V of 1946.

"Provided that the Collector may, subject to such terms and conditions as may be prescribed, permit any dealer required to furnish returns under this section, to furnish them for such different periods as he may direct."

8. To section 11A of the said Act, the following proviso shall be added; namely :— Amendment of section 11A of Bom. V of 1946.

"Provided further that where in respect of such turnover or deductions, as the case may be, an order has already been passed under section 21 or section 22, the Collector shall make a report to the appropriate appellate or revising authority, as the case may be, which shall thereupon after giving the dealer concerned a reasonable opportunity of being heard, pass such orders as it deems fit."

9. In section 12 of the said Act, in sub-section (*4*), in sub-clause (*b*) of clause (i), the figure and brackets "(1)," shall be deleted and after the word and figures "section 11" the words, figures and letter "or under section 11A" shall be inserted. Amendment of section 12 of Bom. V of 1946.

10. After section 12 of the said Act, the following new section shall be inserted, namely :— Insertion of new section 12-1A in Bom. V of 1946.

"12-1A.(*1*) Notwithstanding anything contained in any law or contract to the contrary, the Collector may, at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the Collector) require,— Special mode of recovery.

(*a*) any person from whom any amount is due or may become due to a dealer on whom a notice has been served under sub-section (*4*) of section 12, or

(*b*) any person who holds or may subsequently hold money for or on account of the dealer,

to pay to the Collector, either forthwith upon the money becoming due or being held, or at or within the time specified in the notice (not being before the money becomes due or it is held), so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax and penalty under this Act or the whole of the money when it is equal to or less than that amount.

(*2*) The Collector may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(*3*) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the Collector shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(*4*) Any person discharging any liability to the dealer after receipt of the notice referred to in this section shall be personally liable to the Collector to the extent of the liability discharged or to the extent of the liability of the dealer for tax and penalties, whichever is less.

(5) Where a person to whom a notice under this section is sent proves to the satisfaction of the Collector that the sum demanded or any part thereof is not due to the dealer or that he does not hold any money for or on account of the dealer, then, nothing contained in this section shall be deemed to require such person to pay any such sum or part thereof, as the case may be, to the Collector.

(6) Any amount of money which a person is required to pay to the Collector or for which he is personally liable to the Collector under this section shall, if it remains unpaid, be recoverable as an arrear of land revenue."

Amendment of section 12A of Bom. V of 1946.

11. In section 12A of the said Act, for sub-section (2), the following shall be substituted, namely :-

"(2) No person selling or supplying any goods shall collect from the purchaser any amount by way of Sales Tax unless he is a registered dealer and is liable to pay tax under this Act in respect of such sale or supply :

Provided that this sub-section shall not apply in cases where a person is required to collect such amount of tax separately in order to comply with the conditions and restrictions imposed on him under the provisions of any law for the time being in force. "

Amendment of section 13 of Bom. V of 1946.

12. To section 13 of the said Act, the following proviso shall be added, namely :—

" Provided further that the Collector shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice under sub-section (4) of section 12 may have been issued and shall then refund the balance remaining, if any."

Insertion of new section 13A in Bom. V of 1946.

13. After section 13 of the said Act, the following new section shall be inserted, namely :—

Set off or refund in certain cases.

" 13A. The Collector shall, subject to such conditions as may be prescribed, while assessing the tax payable under this Act by a registered dealer for any period during which he did not hold a licence under section 8B, grant him a set off or refund, as the case may be, equal to the amount of tax under this Act recovered from him, during such period by another registered dealer."

Amendment of section 15 of Bom. V of 1946.

14. In section 15 of the said Act, at the end of sub-section (4), the following shall be added, namely :—

" or any other place where the Collector has reason to believe that the dealer keeps or is for the time being keeping any accounts, registers, or documents of his business."

Amendment of section 16 of Bom. V of 1946.

15. In section 16 of the said Act, the proviso shall be deleted.

Amendment of section 18 of Bom. V of 1946.

16. In section 18 of the said Act,—

(i) in sub-section (1), after the words " the transferee shall " the words " also be liable to pay tax under this Act on the sales or supplies of goods effected by him with effect from the date of such transfer and shall " shall be inserted ;

(ii) in sub-section (2), for the words " a registered dealer " the words " a dealer liable to pay tax under this Act " shall be substituted ;

(iii) for sub-section (3), the following shall be substituted, namely :—

" (3) (i) When a firm liable to pay tax under this Act is dissolved each of such partners thereof shall, or

(ii) where a Hindu joint family liable to pay tax under this Act is separated each of its members shall,

unless he holds or obtains within the prescribed period a certificate of registration, be liable to pay tax under this Act on the proportion of the stock of goods remaining unsold equal to his share or interest in the firm or family, as the case may be."

(iv) in sub-section (*4*),—

(*a*) the words "a business or" shall be deleted;

(*b*) for the words, brackets and figures "sub-sections (*1*) to (*3*)" the words, brackets and figures "sub-section (*2*) or (*3*)" shall be substituted.

Amendment of section 18-A of Bom. V of 1946.

17. In section 18-A of the said Act, after the word and figure "section 8" the words, brackets, figures and letter "or sub-section (*5*) of section 8A" shall be inserted.

Amendment of section 21 of Bom. V of 1946.

18. In section 21 of the said Act,-

(i) to sub-section (*1*), the following proviso shall be added, namely :—

"Provided further that the said authority may, if it deems fit, for reasons to be recorded in writing, entertain an appeal against such order without payment of the amount of tax including penalty, if any, or on proof of payment of such smaller amount as it may direct."

(ii) in sub-section (*3*), for the figures and word "22 and 23" the figures, word and letter "22, 23 or 23A" shall be substituted.

Amendment of section 24 of Bom. V of 1946.

19. In section 24 of the said Act, in sub-section (*1*),—

(i) in clause (*a*), after the word and figure "section 8" the words, brackets and figures "or sub-section (*1*) of section 18" shall be inserted;

(ii) for clause (*c*), the following shall be substituted, namely :—

"(*c*) being a holder of a licence under section 8B, knowingly gives a false certificate in respect of any goods which he has purchased or intends to purchase, for the purpose of clause (ii) of Rule I of sub-section (*3*) of section 6.";

(iii) for clause (*d*), the following shall be substituted, namely :—

"(*d*) not being a holder of a licence under section 8B, falsely represents that he is or was such a holder of a licence at the time when he purchases or purchased any goods;";

(iv) in clause (*f*), for the word "refuses" the word "fails" shall be substituted;

(v) after clause (i), the following word and new clause shall be inserted, namely :—

"or

(*j*) aids or abets any person in the commission of any act specified in clauses (*a*) to (*i*) of this sub-section."

Insertion of new section 28A in Bom. V of 1946.

20. After section 28 of the said Act, the following new section shall be inserted, namely :—

Appearance by dealer.

"28A. Any dealer who is entitled to attend before any authority in connection with any proceedings under this Act, may attend before the authority—

(*a*) by a person authorised by him in this behalf being his relative or a person regularly employed by him, or

(*b*) by a legal practitioner, or

(*c*) subject to such conditions as may be prescribed, by an accountant or sales tax practitioner who possesses the prescribed qualifications."

Amendment of section 29 of Bom. V of 1946.

21. In section 29 of the said Act, in sub-section (*2*)—

(i) in clause (*cc*), the portion beginning with the words "the period" and ending with words and figure "section 6, and" shall be deleted;

(ii) after clause (*ff*), the following clause shall be inserted, namely :—

"(*ffa*) the manner and the form of licence under section 8B and the conditions subject to which a licence is granted;";

(iii) to clause (*h*), the following shall be added, namely :—

"and the terms and conditions for purposes of the proviso to sub-section (*1*) of the said section 10;";

(iv) after clause (*k*), the following shall be inserted, namely :—

"(*kk*) the conditions for the purpose of section 13A;";

(v) after clause (*p*), the following clause shall be inserted, namely :—

"(*pp*) the conditions and the qualifications for the purposes of clause (*c*) of section 28A;".

Amendment of Schedule I of Bom. V of 1946.

22. In Schedule I to the said Act,

(i) for entry (7), the following shall be substituted, namely :—

"7. Silk cloth (including artificial silk cloth), and goods made from such cloth (excluding gas mantles).";

(ii) in entry 13, after the word "real" the word ",artificial" shall be inserted;

(iii) for entry 17, the following shall be substituted, namely :—

"17. Glassware, chinaware and domestic pottery but excluding—

(i) earthenware pottery,

(ii) glass bangles and small beads of black or green colour used for making *mangal sutra* necklaces,

(iii) empty glass bottles,

(iv) spectacle lenses (optical), and

(v) glassware and porcelain ware designed for use for medical, surgical, laboratory and scientific purposes.";

(iv) in entry (22), after the word "embroidered" the words "and goods made from such fabrics" shall be inserted.

Amendment of Schedule II of Bom. V of 1946.

23. In Schedule II to the said Act, for entry 26 the following shall be substituted, namely :—

"26 Motor spirit, meaning—

(*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle, and

(*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated) which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid;

but not including diesel oil or any other form of inflammable hydro-carbon material which the State Government may, by notification in the *Official Gazette*, specify in this behalf."

Government of Bombay

LEGAL DEPARTMENT

[L. A. BILL No. XIII OF 1951.]

(As read for the third time and passed by the Legislative Assembly on the 20th March 1951.)

(As read for the third time and passed by the Legislative Council on the 28th March 1951.)

A Bill to amend the Bombay Sales Tax Act, 1946.

[Shri VAIKUNTH L. MEHTA, M.L.A.]

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